and reciprocal recovery by each carrier of costs arising when it transports or terminates calls that originate on the facilities of another carrier. In this cause, Mr. Sparling proposed rates for the transport and termination on SWBT's network for calls originating on the network of a Competitive Local Exchange Carrier (CLEC). The pricing methodology for these services is summarized on Exhibit B of Mr. Sparling's testimony.

Interim Number Portability (INP) is an arrangement that permits a telephone subscriber switching its local service from SWBT to another switched-based CLEC to retain the terminating use of the same telephone number previously assigned by SWBT. The term "interim" indicates that these are temporary measures available prior to implementation of a permanent number portability. In accordance with the Federal Telecommunications Act, FCC orders and this Commission's rulings in both of the SWBT-AT&T Arbitrations (PUD 96-218 and PUD 97-175), SWBT provides two alternative types of INP: INP-Remote, which is a form of Remote Call Forwarding and INP-Direct, which is a form of Direct Inward Dialing Service, as explained in detail by Mr. Deere. The pricing methodology for these services is summarized on Exhibit B of Mr. Sparling's testimony.

In his rebuttal testimony in PUD 97-442, Mr. Sparling rebutted testimony by AT&T's Mr. Flappan concerning rates for Interim Number Portability (INP). AT&T's position was that INP prices should not be set in this docket. SWBT seeks INP rates here.

In the Interconnection Agreement, SWBT and AT&T agreed to track the costs associated with the implementation and provisioning of INP and to true-up INP based on these costs. SWBT was to conduct a TELRIC study utilizing the Elemental Access Lines (EALs) method and the parties agreed to submit the study to the Commission in this cost docket. Furthermore, in his direct testimony, Mr. Sparling included rates that SWBT is proposing for INP, according to the Interconnection Agreement between the parties. SWBT is not currently charging any party for INP but is tracking costs so that a proper true-up can occur once INP rates are established in this docket.

Nevertheless, AT&T's Mr. Flappan disingenuously and erroneously suggested that the FCC has ordered that the parties bear their own cost of INP and that SWBT has agreed to this procedure. To the contrary, the matter of INP cost recovery has been determined by this Commission in the arbitration proceeding approving the Interconnection Agreement between SWBT and AT&T. The INP cost study presented by Ms. Smith was commissioned so SWBT could establish its rates and properly track its INP costs as they are incurred. AT&T has now had ample time to provide its own cost study regarding this element. The additional time as suggested by Mr. Flappan is unwarranted. The Commission should set INP rates without delay based on SWBT's cost study.

17. Charles H. Cleek

In his direct testimony in PUD 97-213, SWBT witness Charles H. Cleek testified that he is District Manager for Rates and Industry Relations for SWBT. In his testimony, he addressed SWBT's proposed prices for a number of UNEs, including Directory Assistance, Operator Services and Operations Support Systems.

He also described each of these UNEs, the associated rate elements and the pricing methodology.

Mr. Cleek referred to the cost and pricing standards established by this Commission for setting UNE rates. To determine prices that comply with these Commission requirements, SWBT conducted forward-looking economic cost studies using forward-looking LRIC for the UNEs presented by Mr. Cleek. In addition, SWBT developed a common cost allocator that results in a reasonable allocation of common costs to each UNE.

Testimony in this proceeding submitted by Barbara Smith (including the testimony of Linda Robey that Ms. Smith had adopted) identified recurring and nonrecurring UNE costs. SWBT proposes rates to recover each cost separately as recurring or non-recurring prices. Ms. Smith also identified both monthly recurring costs and usage sensitive costs. SWBT proposes rates that will recover these costs in the manner in which each is incurred: monthly recurring prices to recover monthly recurring costs and usage sensitive prices to recover usage sensitive costs.

Generally, SWBT's proposed UNE rates were developed by: (i) rounding the results of the forward-looking economic cost results; (ii) allocating common costs to the nearest $.05 for monthly recurring and nonrecurring charges; and (iii) truncating the forward-looking economic cost results at the sixth decimal place for elements charged on a per minute-of-use (MOU) basis. This rate proposal gives SWBT an opportunity to earn a reasonable profit.

Mr. Cleek's testimony described the following UNEs which SWBT will offer:

- Direct Assistance;
- Access to Directory Assistance Database;
- Operator Service Call Completion Services;
- Call Branding;
- Service Rate Information;
- Operations Support Systems (OSS);
- Service Order Charges;
- Maintenance of Service Charges;
- Time and Material;
- Non-Productive Dispatch; and
- Performance Data.

Mr. Cleek described how the proposed price for each UNE was determined. The chart attached as Exhibit A to Mr. Cleek's testimony summarized these pricing methodologies. The chart attached as Exhibit B to Mr. Cleek's testimony listed the prices proposed by SWBT for all UNEs; those prices sponsored by Mr. Cleek are shaded on said chart.

In his rebuttal testimony in PUD 97-213, Mr. Cleek dealt with several pricing issues in dispute.

- The price for the customer disconnect notice (to be provided by SWBT to the CLEC when its customer changes to another CLEC or to SWBT) is not subject to this docket. The price was already determined to be

10 cents for each working telephone number in the second AT&T arbitration. In any event, this is not a network element and is not subject to the pricing standards for UNEs under either the Act or the Commission's rules.

- AT&T contended that system access to Operations Support Systems should be provided at no charge because SWBT failed to provide a cost study. Mr. Cleek confirmed that a cost study was provided.

- AT&T proposed that performance data should be provided at no charge. This proposal is contrary to AT&T's Interconnection Agreement with SWBT, which provides that AT&T will compensate SWBT for performance data. The parties are required by the agreement to jointly define the performance data to be provided; however, they have not yet done so. Until the data to be provided is establishing by agreement, it is impossible to determine a price for providing it. This is why SWBT has proposed that rates for this item be developed on an Individual Case Basis (ICB).

- AT&T proposed that charges for various maintenance, time, and dispatch be billed in 15 minute increments. This is contrary to the provisions of the Interconnection Agreement that have been approved by the Commission. Furthermore, SWBT's internal systems now provide for billing such items on 30 minute increments; there is no requirement to redo all of SWBT's internal systems to accommodate AT&T.

- AT&T proposed that access to SWBT's directory assistance database be provided at no charge, subject to true up. This item should be charged ICB because costs (and thus pricing) are very dependent on the type of arrangement the CLEC wishes to use to access the database. There are at least four different types of access configurations to choose from and the price is dependent on the configuration chosen. In any event, there have been no requests from CLECs for this service, so ICB pricing should not be a problem.

In his direct testimony in PUD 97-442, Mr. Cleek addressed SWBT's proposed prices for all rate elements *except* (1) Intercompany Terminating Compensation for Local Traffic (transport and termination), (2) 911 and (3) Interim Number Portability. He described each element, the associated rate elements and the pricing methodology for each. Based on the technical description of each element provided in Mr. Deere's testimony, together with the cost studies presented by Ms. Smith (including the testimony of Ms. Robey adopted by Smith), Mr. Cleek presented prices for each element. Attached as Exhibit A to Mr. Cleek's testimony is a list of all prices proposed by SWBT in this docket. Prices sponsored by Mr. Cleek are shaded in said Exhibit A.

A number of the prices for rate elements presented by Mr. Cleek in this cause are the same as the prices presented in PUD 97-213 for the comparable UNEs. Directory Assistance, Operator Services and Operator Support Systems are the primary elements involved. All such elements are identified in the pricing schedule attached as Exhibit A to Mr. Cleek's testimony by the phrase "rates same as in Cause No. PUD 97000213."

Elements which duplicate UNEs are included in this cause because SWBT has agreed to make them available to LSPs when they resell SWBT services or when they operate as facilities-based providers. The price proposed for Service Rate Information (OS/DA) is slightly different for resale than for UNEs. When providing this service in a resale environment, the cost differs slightly because a different billing system will be used for resale. The rates proposed here reflect these minor billing differences.

Mr. Cleek described the following additional elements that do not correspond to a UNE:

- White Page Directories;
- Information Page included in White Page Directories;
- Directory Assistance Listings;
- Non-published Emergency Message Service;
- Customer Conversion Charge; and
- Directory Assistance Call Completion.

Mr. Cleek described how the proposed price for each of these elements was determined. The chart attached as Exhibit B to Mr. Cleek's testimony summarized the pricing methodologies for each element. Prices for each are included in Exhibit A of Mr. Cleek's testimony.

In his rebuttal testimony in PUD 97-442, Mr. Cleek discussed the pricing for a number of items with which there is a dispute with the CLECs. There is no assertion that any of the items covered by Mr. Cleek's rebuttal testimony in this cause are UNEs or that they are subject to the costing standards of the Telecommunications Act.

Mr. Cleek first dealt with SWBT's proposed rates for directory assistance listings, directory assistance call completion and non-published emergency services. These are all services SWBT now provides to other telecommunication service providers, independent local exchange companies (ILECs) and other operator service providers (OSPs). SWBT proposes rates here that are identical to those being charged to these others. These rates have been approved by the OCC in the context of contracts negotiated with ILECs or OSPs.

The next issue dealt with system access to Operation Support Systems (OSS). Mr. Flappan proposed that access be provided at no charge because he believes SWBT failed to provide a cost study for this item. Mr. Cleek rebutted this position by explaining that such a cost study was provided.

SWBT proposed a $10.00 charge for the order and delivery of a white pages directory subsequent to the initial order. The purpose of this charge is to give an incentive for CLECs to accurately estimate the number of books that they will require during the directory year so that all directories can be printed at once. Additional printings based on subsequent orders are more expensive. Hence, the

$10.00 charge is proposed. The suggestion by Mr. Stright that subsequent orders can be filled from existing inventories is incorrect. SWBT plans on printing the number of directories requested by each CLEC and the number of directories needed for its own end users. SWBT will not use inventory to meet subsequent requests for directories.

AT&T proposed that additional directories be provided at no cost. That proposal should be rejected because it would give CLECs incentive to underestimate their initial orders when they could get subsequent copies for free. The $10.00 rate proposed by SWBT places the burden of providing good estimates on the CLECs instead of on SWBT.

AT&T and the Liberty witnesses proposed a statewide average rate for the CLEC information page that will be included in SWBT'S white pages directory. If an average rate were to be provided, and a CLEC is operational only in the metro zones where costs are considerably higher, that CLEC will be able to obtain its information page below the cost for the areas it will be serving. The correct way to price this service will be at the three geographic zone rates proposed by SWBT.

Mr. Cleek reviewed the clear and concise method for charging for white pages proposed by SWBT. He contrasted this with the confusing and ambiguous proposal suggested by Mr. Hvalak.

Mr. Stright proposed that customer conversion charges for resale be based on the assumption that all ordering will be fully mechanized. This is an incorrect assumption and would result in below-cost pricing. SWBT has not been able to provide certain types of service without manual intervention in the past and does not foresee a change in this pattern in the future. In a perfect world and as computer systems become more sophisticated, one would hope that many of the current manual operations can be eliminated. However, there is no expectation that these processes can be mechanized at this time. Therefore, SWBT should be allowed to recover its costs in converting these services, including the cost of manual intervention.

Furthermore, if the cost of manual processing were excluded, SWBT would be forced to provide manual orders well below its cost to those CLECs that do not develop mechanized systems. The $5.00 charge that SWBT proposed is the same rate charged out of its access tariffs for a customer changing their primary interexchange carrier and should be adopted here.

After the Commission ordered the ALJ to reopen the record and admit the prefiled testimony of Staff's witnesses, SWBT filed a brief discussing the impact of the Staff testimony on the case. Included with SWBT's brief was the affidavit of Mr. Cleek. In his affidavit, Mr. Cleek set forth several reasons why the nonunanimous stipulation should be adopted by the Commission, as follows:

1. Prior to proposing stipulated rates in the cost dockets, PUD 97-213 and PUD 97-442, the Staff had access to the results of the cost studies submitted by SWBT, AT&T and Staff's consultant, Liberty Consulting. In fact, SWBT responded to in excess of 366 formal data requests in this docket, 177 of which were served on SWBT by Staff through Liberty. In addition, Liberty informally

contacted SWBT on numerous occasions to inquire about certain issues. These requests sought detailed and voluminous information regarding SWBT's costs, cost studies and proposed rates. Therefore, Staff had sufficient information available to it, prior to proposing the stipulated rates, to conclude that such rates were indeed cost based. This is evident by the fact that Staff's stipulation states "the rates set forth on Attachment 'A' are fair and reasonable and satisfy the costing standards contained in Section 252 of the federal Telecommunications Act of 1996 and are forward-looking."

2. In setting the recurring rates contained in the stipulation, Staff concluded that the appropriate rates for 2-wire unbundled loops should be set at $13.00 for urban areas, $15.00 for sub-urban areas and $35.00 for rural areas. These proposed rates are much closer to the rates AT&T proposed in this docket than the rates which were put forward by SWBT. In fact, Mr. Auinbauh testified that the urban loop rate contained in the stipulation is approximately two thirds of the rate AT&T requested. For access to operational support systems, Staff elected to propose the same rates that AT&T had previously proposed in its settlement offer. For those elements that AT&T contended should be provided at no charge, Staff determined that the appropriate rate for each such element should be equal to two thirds of the rate proposed by SWBT. Finally, for all remaining recurring elements, the stipulated rates constitute an average of the rates proposed by SWBT and AT&T. In establishing the rates for non-recurring charges, Staff stipulated to a rate equal to two thirds of the rate being proposed by SWBT.

3. SWBT reviewed and analyzed Staff's proposed stipulated rates and concluded that such rates were supported by cost evidence introduced by SWBT, Liberty and AT&T in these dockets. In fact, Liberty was a driver of the stipulation in that Liberty's proposed revisions to the parties' inputs and assumptions were considered by SWBT in evaluating the potential outcome of the case given the issue matrix items which were being disputed.

4. The principal cost drivers are loop, port and switch, each of which are an issue matrix item for which each of the parties, including Staff, through Liberty, had a different proposal. As for loop, in analyzing the matrix and from past experience, SWBT believed that decisions on fill factor, depreciation and cost of money (which SWBT had already agreed to change, but had not yet done so in its own cost outputs) would have a significant impact on the eventual cost outcome. For instance, adjustments in depreciation could result in a cost different of between $2.00 and $2.25 per line per month, a fill factor adjustment could result in a cost difference of as much as $3.00 per line per month, while an adjustment in the cost of money could result in a cost difference of as much as $1.00 per line per month. SWBT had rerun its loop studies using Liberty's proposals and the results were remarkably close to the proposed stipulation number, as evidenced by the chart set forth below.

	SWBT	AT&T	COX	LIBERTY	STIPULATION
Urban Loop Rate	$20.70	$10.21	$14.01	$12.31	$13.00

5. For switching, SWBT saw a similar analysis. According to the issue matrix , items such as switch discounts, demand, treatment of nonrecurring costs, feature related hardware and startup were at issue in this docket. From past experience, SWBT knows that the Commission's determination on the various positions of the parties on these issue matrix items would have a significant impact on cost output. Rerunning SWBT's SCIS utilizing Liberty's inputs confirmed the cost would significantly decrease if the above matrix items were resolved in Liberty's favor. SWBT did dispute the treatment of switch/port nonrecurring and therefore, in considering the proposed rate in the stipulation, we were convinced that our position was correct and the stipulated rate so reflects that, as evidenced by the chart set forth below.

	SWBT	AT&T	LIBERTY	STIPULATION
Local Switch	$0.003463	$0.001074	$0.002048	$0.002268
Port Charges	$2.10	$2.25	$2.45	$2.18

6. With respect to the issue matrix items related to transport, fill, depreciation and the cost of money would be the principal drivers of the cost outcome. Using the same analysis Mr. Cleek described above for loop, and rerunning the studies using Liberty's proposals, it was determined that if Liberty's proposals were accepted, the stipulated rate would be reasonable and consistent with those costs as reflected below.

	SWBT	AT&T	LIBERTY	STIPULATION
Transport Facility Per MOU	$0.00012	$0.000003	$0.000005	$0.000008

7. The final significant cost driver was the common cost allocator. There were numerous proposals on how to calculate the common costs and what the outcome should be. SWBT proposed a common cost allocator of 18.64. It also considered the impact of a lower common cost allocator (i.e., Liberty proposed a 13.1 percent common cost allocator) on our proposed rates and took that into consideration in determining that the stipulated rates were just and reasonable.

8. The remaining rate elements have a lesser impact on overall operations and the ability of CLECs to be in business. SWBT did not follow as detailed an analysis for those, but again, given the issue matrix items and the results of the more detailed analysis of the items discussed above, it is SWBT's judgment that the stipulated rates represent a reasonable outcome of the disputed items on the issue matrix such as fill, time adjustments, depreciation, utilization, building factors, cost of money and the common cost allocator.

9. SWBT is concerned with the Section 252 requirement that the rates be based upon cost, plus a reasonable profit. It is SWBT's judgment that the stipulated rates meet the requirements of the federal Act.[3] The obligation under

[3] Further evidence that stipulated rates can be cost based is the fact that SWBT and AT&T reached a stipulation on the appropriate cost of capital to be used in calculating rates, which Staff signed as unopposed. As is the case with

Section 252 is for the Commission and SWBT to arrive at just and reasonable rates. A witness for a major facility-based CLEC in Oklahoma, Dr. Francis Collins, on behalf of Cox, testified that the input data to the cost studies presented by the various parties are subject to speculation, are forward looking and have been developed as a result of estimates of time, cost, inflation rates and other subjective estimates. As a consequence, he testified that a reasonable outcome of the cause could be the rates that are in the stipulation which he considers to be cost based. He further testified that Cox could enter the competitive marketplace and become a competitor in Oklahoma with the rates proposed in the stipulation. Dr. Collins also testified that the rates in the settlement would not negate a company's ability to enter the competitive marketplace in Oklahoma, irrespective of its market entry strategy. For these reasons, Dr. Collins asked that the stipulation be approved by the Commission. SWBT concurs with Cox's assessment of the stipulation. In evaluating the stipulation, SWBT believes that the Commission should give Cox's testimony more credence than AT&T's given the fact that Cox has already entered the market, is currently in business in Oklahoma, has collocated in SWBT's central offices and is currently passing orders. Conversely, AT&T is not currently in business in Oklahoma and recently at the hearing in Cause No. 97-560 ("the 271 proceeding"), presented testimony that it would not enter the market in Oklahoma in the near future, if ever. SWBT concurs with Cox's assessment.

B. Cox's Evidence and Testimony

Dr. Francis R. Collins

Dr. Francis R. Collins testified on behalf of Cox Oklahoma Telcom, Inc., ("Cox"). Dr. Collins offered both prefiled direct and rebuttal testimony. In his prefiled testimony Dr. Collins briefly discussed the Telecommunications Act of 1996 ("Act") and the resulting First Report and Order issued by the Federal Communications Commission ("FCC"). Dr. Collins testified that the Total Element Long Run Incremental Costing ("TELRIC") methodology embodied in the Act and developed in the FCC's First Report and Order is intended to replicate, as closely as possible, the conditions of a competitive market. As Dr. Collins pointed out, the soundness of the TELRIC methodology was not challenged in the subsequent appeal to the Eighth Circuit Court of Appeals, and was not overturned by that Court's decision. The specific determination of the TELRIC of specific unbundled network elements was left to state commissions such as the Oklahoma Corporation Commission in this docket.

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nearly all of the rates proposed by Staff in the stipulation, the cost of capital contained in the AT&T/SWBT stipulation falls between what was proposed by SWBT and AT&T, yet there is no claim by AT&T or any other party that the number agreed to is not cost based. In fact, in that stipulation, AT&T specifically agreed "that the cost of capital agreed to...satisfies the costing standards set forth in Section 252 of the federal Telecommunications Act of 1996 and is a forward-looking cost of capital."

Dr. Collins further testified that the TELRIC methodology sets the rates for interconnection and unbundled network elements ("UNEs") at the forward-looking economic cost of providing interconnection and UNEs. These costs consist of two parts: cost of capital and expenses. Dr. Collins distinguished the forward-looking cost of capital required in this cause from the cost of capital determinations historically made in traditional rate cases. The task of regulators in traditional rate cases was to insure the monopoly's recovery of all historically incurred embedded accounting costs. In contrast, Dr. Collins testified that the focus of the Commission in this docket is on the pricing of specific services or network elements. The issues of concern to the Commission in this docket should be market entry and economically efficient pricing for new entrants, rather than the recovery of historical costs for incumbent local exchange carriers. This requires the use of forward-looking capital costs and a market value capital structure, rather than the historical capital costs and structures traditionally used.

Dr. Collins testified that SWBT's proposed weighted average cost of capital of 10.69% is too high and should be rejected. Dr. Collins did determine that the 58% equity and 42% debt capital structure used by SWBT was within the range of reasonableness, although on the high side. Dr. Collins, however, rejected SWBT's proposed 7.5% cost of debt. Dr. Collins testified that the current yield on Aa rated utility debt is currently approximately 7.0% and declining. Accordingly, Dr. Collins recommended that the Commission use 7.0% as the appropriate forward-looking cost of debt associated with SWBT's provision of UNEs.

Dr. Collins also rejected SWBT's proposed 13.0% cost of common equity as substantially too high. Dr. Collins pointed out that a discounted cash flow analysis produces a cost of equity of 12.0% for SBC, SWBT's parent corporation, as compared with a cost of 11.5% for a Regional Holding Company. However, Dr. Collins testified that both of these figures reflect consolidated operations, which are influenced in an upward fashion by more risky operations than simply providing UNEs. Given these risk differentials and the fact that capital costs have fallen dramatically in recent times, Dr. Collins concluded that the cost of common equity established in this proceeding should be *no greater* than 11.0%.

Using the 58% equity and 42% dept capital structure accepted by Dr. Collins, as well as his recommended 7.0% cost of debt and maximum cost of equity of 11.0%, produces a forward-looking, weighted average cost of capital of 9.32%. Dr. Collins recommended that this figure be reduced further when applied to UNEs and interconnection services because of the minimal risks involved. However, to avoid controversy Dr. Collins used the 9.32% figure in developing his testimony and recommended that the Commission direct SWBT to re-run its TELRIC studies using the 9.32% figure.

In his rebuttal testimony Dr. Collins noted that some or all of the other parties in this cause have agreed to use a 10.00% weighted average cost of capital. Dr. Collins testified that the 10.00% figure is significantly too high and pointed out that his 9.32% recommendation is a conservative estimate. Dr. Collins recommended that the Commission adopt his 9.32% recommendation rather than the 10.00% figure.

With regard to his TELRIC analysis of SWBT's proposed UNE rates, Dr. Collins testified he originally intended to bifurcate his TELRIC studies in this docket into two phases. His Phase (A) analysis would determine the TELRIC costs of SWBT's UNEs using the Bellcore models employed by SWBT in its analysis (e.g., CAPCOST), with appropriate modifications only as to input values. His Phase (B) analysis would go further and determine the TELRIC costs of SWBT's UNEs using appropriate input values *and* appropriate modeling procedures and computational algorithms (e.g., CAPCOST PLUS instead of CAPCOST). Dr. Collins pointed out that the Phase (B) analysis was necessary because of SWBT's use of the outdated and unacceptable CAPCOST model rather than the more recently developed and more appropriate CAPCOST PLUS model. Dr. Collins testified that because of the procedural schedule imposed in this docket, he was unable to fully complete either Phase (A) or Phase (B) of his TELRIC analysis.

In his Phase (A) analysis Dr. Collins used all of the same models as SWBT, but with modified input values. Dr. Collins testified that he was unable to perform the independent studies necessary to establish the appropriate values for all TELRIC model inputs. Of necessity, Dr. Collins used several of SWBT's input values, although with certain minor modifications obviously required. Dr. Collins found a number of these input values to be questionable. Examples are the maintenance and administration expense factors that SWBT proposes to apply to its unbundled loop incremental investment and the common cost factor (18.64%) proposed by SWBT. Dr. Collins also questioned the appropriateness of the incremental investment (e.g., engineering, power, fill factors and support facilities) that SWBT claimed is necessary to provide unbundled loops.

Dr. Collins also noted that SWBT has produced a separate study for the non-recurring costs associated with the network interface device ("NID"), but no study for the associated monthly recurring costs. The FCC requires the NID and the local loop to be separate UNEs. The absence of a separate SWBT study for the monthly recurring costs of a NID suggests the possibility that these costs are bundled within the local loop cost study. If so, Dr. Collins testified that this would violate the FCC's requirements to unbundle the NID and the local loop, and would overstate the recurring costs of the loop.

Dr. Collins testified that his Phase (A) analysis confirmed what he has found to be true in a number of other jurisdictions: SWBT's use of the CAPCOST model is inappropriate and overstates the TELRIC results. The overstatement is compounded in this instance because of SWBT's use of the oldest version of the CAPCOST model rather than the newer (but still inappropriate) CAPCOST PLUS model. Dr. Collins testified that use of the CAPCOST model in TELRIC cost studies is inappropriate because it utilizes regulatory accounting conventions that bear little relation to the way prices are set in competitive markets, or to the proper pricing of UNEs today. While the CAPCOST PLUS model was developed to mitigate the deficiencies of the older CAPCOST model, Dr. Collins' experience has shown that even CAPCOST PLUS overstates the TELRIC of UNEs because of the computational algorithms of the model. On the basis of his Phase (A) analysis, Dr. Collins determined that SWBT's TELRIC input values are biased upwards. Dr. Collins recommended that Commission remove such biases by requiring SWBT to re-run its cost studies using his recommendations.

Due to the time restraints in this docket Dr. Collins was only able to substantially complete his Phase (B) analysis as to SWBT's 2-wire local loop costs. Two-wire loops were chosen because they are one of the most important UNEs in creating a level playing field for facilities-based CLECs. Exhibits FRC-1 through FRC-5 collectively present the initial TELRIC results, input values and calculation methods in Dr. Collins' Phase (B) analysis.

Dr. Collins' initial estimated monthly recurring TELRIC costs for SWBT's unbundled 2-wire loops are:

Group 1 (rural) - $34.76

Group 2 (urban) - $19.22

Group 3 (metro) - $14.01

Dr. Collins testified that SWBT's proposed loop costs are substantially overstated, exceeding his own estimates by 42-48%. For these reasons, it is Dr. Collins' recommendation that SWBT's proposed costs for UNEs be rejected, and that SWBT be required to re-run its studies using the appropriate input values and modeling procedures, as determined by the Commission in this docket.

In light of the Administrative Law Judge's ruling striking the prefiled testimony of the Liberty Consulting Group ("Liberty") on behalf of the Commission's Public Utility Division ("PUD"), Dr. Collins offered additional oral rebuttal testimony. Dr. Collins testified that if the costs presented by SWBT for its UNEs were adopted by the Commission and used to develop rates, the rates for unbundled loops would essentially match the existing retail revenues for the same services. In Dr. Collins' opinion this fact indicates that there is a margin of zero between the wholesale costs necessary to compete and the retail prices in the marketplace today. Dr. Collins testified that it is impossible to create a competitive environment where the margin is zero.

In addition to his prefiled testimony and additional oral rebuttal testimony, Dr. Collins testified in support of the stipulation between Cox and PUD (the "Cox/PUD stipulation" or "Cox/PUD agreement"), which SWBT agreed not to oppose. Dr. Collins testified that the Cox/PUD stipulation was a compromise settlement of the positions filed by the signatory parties and did not completely satisfy any of the signatories. Dr. Collins urged the Commission to accept the Cox/PUD agreement. However, in the event the Cox/PUD agreement was not accepted by the Commission Dr. Collins recommended that the Commission require SWBT to rerun its TELRIC cost studies using Cox's recommended cost of capital, depreciation rate and the other modifications contained in his prefiled testimony.

In response to cross-examination regarding the Cox/PUD stipulation Dr. Collins testified that the record in Cause No. PUD 970000213 contains evidence of a broad range of TELRIC costs. SWBT has filed evidence establishing the upper boundary of the range of TELRIC costs and rates for UNEs; while AT&T has filed evidence establishing the lower boundary of the range; Cox has filed evidence supporting TELRIC costs and rates lower than SWBT but higher than AT&T. Dr. Collins testified that this disparity among the parties' evidence is an indication that the positions set forth in the filed testimony is dependent upon the input data utilized in the various costing models. Dr. Collins testified that there is a certain amount of speculation and subjectivity that goes into quantifying the input data because it is forward looking. For example, much of the input data is based on estimates: estimates of time, estimates of cost, estimates of inflation rates in the future.

Given the subjectivity of the input data and the resulting broad range of TELRIC output, Dr. Collins testified that the rates contained within the Cox/PUD stipulation are within the range of possible outcomes in this docket. Dr. Collins testified that although some of the stipulated rates are higher than what Cox would prefer, Cox believes it can enter the competitive marketplace in Oklahoma on the basis of the Cox/PUD agreement. Where the stipulated rates are higher than Cox desires it will "work around" those situations by deploying development and implementation strategies of its own. Where Cox is unable to work around the higher rate. Dr. Collins testified that Cox will simply pay the higher rate.

Summary of Cross-Examination of Francis R. Collins

Upon questioning by the ALJ, Dr. Collins explained that Cox has no disagreement with the cost models used in SWBT's cost studies. He explained that in the range of costs developed in this docket, SWBT is on the significantly high side, that AT&T is at the other extreme and that Cox is somewhat above AT&T but below SWBT. The differences between these costs is the result of differences of opinions in the input data. Dr. Collins stated that the cost developed by the various parties are forward looking. They have been developed as a result of estimates that are somewhat subjective. He stated that it is quite natural that the subjective inputs, being influenced by different parties with different agendas, will result in different outcomes. He concluded that one of the legitimate outcomes from all the cost data presented by the various parties is that set of rates set forth in the stipulation.

He further explained that with the settlement rates, Cox could enter the competitive marketplace and be a competitor as a facility-based carrier. He specifically stated that Cox could compete under the stipulated rates. He stated that Cox, like every other competitor, will not need the use of the full range of unbundled network elements. In some cases, the network element costs are higher than Cox would like to see. Cox will try to work around those situations by deploying development and implementation strategies of its own. When it can't do that, it will pay the higher rates. When all that is put together, Cox believes that the stipulation represents an opportunity to become competitive and Cox is willing to support the stipulation.

In cross-examination by AT&T, Dr. Collins refused to conclude that SWBT rates are not cost-based rates. Rather, he concluded that the stipulated rates provide a set of cost-based rates supported by the various cost data presented by the parties. Dr. Collins also outlined the manner in which the stipulated rates were calculated. He concluded that the outcome of that process resulted in rates that fell within a range of reasonable cost-based rates that Cox could support.

Dr. Collins further concluded that any competitor could construct a network while successfully and economically making use of unbundled network elements at the stipulated rates. He believes that it would be possible for any market entrant to develop a network under the stipulated rates. He does not believe that anything in the settlement will hamper a competitor's ability to enter the competitive marketplace in Oklahoma.

C. AT&T's Evidence and Testimony

1. Jon Zubkus

Mr. Zubkus is currently employed by AT&T as a Manager in the Local Infrastructure and Access Management Group. His business address is 919 Congress Avenue Suite 900, Austin, Texas 78701.

Mr. Zubkus previously worked for Southwestern Bell Telephone Company ("Southwestern Bell" or "SWBT") for 30 years in a variety of positions. He was involved in various network cost study functions; and, as District Manager-Cost Studies, he was responsible for developing incremental cost studies for various telecommunications services and unbundled telecommunications elements. The unbundled element studies included items such as loops, switching, interoffice and interexchange facilities, while the studies for services included Private Line, Long Distance, WATS, Data, Local Service and Access Service Cost Studies.

Mr. Zubkus's responsibilities included procedural development and implementation of these studies. Between November 1995 and January 1997 he was employed by Cathey, Hutton & Associates ("CHA") and had various regulatory responsibilities for the firm, including the development of incremental cost studies. Since January 1997, he has been employed by AT&T.

Mr. Zubkus testified before this regulatory body while employed by Southwestern Bell Telephone Company. He has also testified before the State Regulatory Commissions of Missouri, Kansas, Texas, Arizona and Arkansas.

Mr. Zubkus's current responsibilities at AT&T include the review and analysis of cost studies presented by local exchange companies in support of their resale discounts and the pricing of their Unbundled Network Elements.

Mr. Zubkus reviewed and evaluated the cost studies for unbundled loops submitted by SWBT in this docket to determine whether those studies comply with the LRIC principles established in OAC 165:55-1-4. He found there are a number of instances where SWBT's studies do not comply with these LRIC principles. His testimony offered corrections he has found are necessary to make those studies comply as closely as possible with LRIC. In addition, Mr. Zubkus has rerun the SWBT Cost Studies utilizing the changes that he recommended. The results of rerunning the produces cost for unbundled loops which are much closer to the LRIC than the costs proposed by SWBT. His revisions to the SWBT cost studies are reflected in Attachment JAZ-1. This attachment shows what the costs proposed by SWBT would be for the various kinds of unbundled loops using my revised cost calculations.

A fundamental tenant of the Oklahoma Rule is the non-discriminatory requirement -- the cost to provide new entrants must be no higher than the cost that SWBT incurs where it provides that service to itself. SWBT's loop cost studies fail this fundamental tenant on both a factual and theoretical basis as seen by comparing the SWBT cost estimates with several SWBT end user service prices that SWBT claims fully recover SWBT's LRIC of providing that service.

For example, SWBT's current tariff in Oklahoma for a Centrex II Service Primary Location Exchange Access Line is $11.28. This rate applies on a statewide basis and includes switching and intercom as well as a loop. These rates do, by SWBT's own admission, fully recover LRIC. SWBT now, claims that the LRIC for a loop in the most populated service area is $17.44, or 155% higher than their rate for loop, switching and intercom.

Mr. Zubkus explained why the *actual* lengths of the sampled loops should be used to calculate loop costs. SWBT'S loop cost model, Loopvst, does not determine cost based upon actual loop lengths, but instead assumes that all loops have lengths equal to even thousand foot lengths calculating instead a theoretical loop length and associated cost.

SWBT used a fill factor in its loop cost studies that assumes that SWBT's distribution plant is about 70% unused today and is expected to remain unused for the entire life of the plant. In order to recover the cost of the unused plant, the loop cost study adds the costs for this unused plant to the costs of loops used by the existing customers. This means that each loop charge actually covers the cost of three and one-third loops. A competitive telecommunications firm cannot operate at such a low level of capacity. Over the long run, SWBT will become much more efficient than is is today. That improved efficiency will result in higher levels of distribution fill. A level of 50% unused distribution plant is a reasonable approximation of the fill that SWBT will experience in the future.

There are at least two problems with the feeder portions of SWBT's unbundled cost studies. First, SWBT assumed inefficient placement of feeder cables by not sizing these cables to serve all of the demand along a given route. Second, SWBT assumed higher costs than an efficient firm would encounter for the termination of feeder cables. These failings inflate the cost estimates for feeder above an accurate estimate of LRIC.

SWBT has admitted that it tapers its feeder cable in this manner. Moreover, SWBT has admitted that it is more efficient to taper feeder cable. Thus, SWBT's loop studies do not conform to the manner in which SWBT configures its network and also does not conform to how such a network would be configured in a forward-looking least cost environment. Therefore, the studies do not comply with LRIC.

As Mr. William Deere explained on page 14 of his direct testimony, the feeder distribution interface (FDI) is the cross-connect box connecting feeder cable to distribution cable. Mr. Deere has also testified on page 13 of his direct testimony that approximately 25% of the loops in Oklahoma are configured without an FDI, thus distribution cable is directly hardwired to feeder cable facilities. Mr. Deere also testified that this situation is not likely to change.

However, in conflict with Mr. Deere's testimony, SWBT studied the cost of feeder by assuming that the feeder portion of every loop ends in an actual FDI where it then connects to distribution plant. As stated above, the assumption that every feeder loop terminates on an FDI is wrong. SWBT's assumption of an FDI termination adds inefficient amounts of additional investment to the underlying cost estimates, contrary to the requirement that the cost estimates reflect efficient design.

Mr. Zubkus made two modifications to SWBT's cost studies to account for these deficiencies. First, to be consistent with Mr. Deere's Testimony and account for the 25% overstatement of FDI investment, he adjusted the FDI investment by eliminating 25% of the investment. The remaining 75% of the investment is consistent with Mr. Deere's Testimony. Second, since 25% of the distribution plant facilities are directly hardwired to feeder plant, he made an adjustment to the distribution investment cost calculations. With distribution facilities directly wired to feeder facilities, they appear as a single facility as they are indistinguishable from feeder facilities. Accordingly, the investments for each should be consistent. To account for this situation Mr. Zubkus utilized the same investment figures for both feeder and distribution facilities.

SWBT assumed that all 2-wire 8db loops would use a premise termination that is capable of handling only one or two loop terminations. The effect of SWBT's assumption is to raise still further the costs estimated for an unbundled 2-wire 8db loop, the kind of loop that, if it were priced according to accurate estimates of LRIC, would be the kind of unbundled loop most often used by entrants.

Two-wire loops can terminate at premises that use many lines, not just at premises that use only one or two. Assuming that two-wire loops only terminate on Network Interface Devices (NIDs) designed to terminate only one or two lines overstates the average cost of NIDs for all two-wire circuits.

The correct way to model NID costs for 2-wire, 8db loops and distribution subloops is to use a weighted average of the two kinds of terminations. Consequently, my modification is based on my estimate of the relative proportion of 2-wire, 8db lines that terminate on multiline NIDs and the relative proportion that terminate on NIDs designed to terminate only one or two lines.

Mr. Zubkus also made an adjustment to the digital loop electronics contained in SWBT's study. There are two types of digital loop electronics utilized in SWBT's cost study, an Integrated Unit and a Universal Unit. SWBT's cost study used a mixture of these two of units. The Universal unit is not forward-looking and is more expensive to install and maintain when compared to the Integrated unit. Consequently, to be consistent with LRIC principles of forward-looking and least cost, Mr. Zubkus used only the Integrated unit in my study modifications.

SWBT also should have made modifications to their outside plant supporting structure factors for conduit and poles to account for leased space to others. SWBT poles and conduit are not solely used to support SWBT's loop plant. These structures are also leased directly to other vendors such as CATV companies. By not considering the total future demand for poles and conduit, the costs estimated for these items violate LRIC principles. In addition, revenues are already being received for supporting structures. Thus, including the total costs of poles and conduit in the unbundled loop cost study and ignoring the revenues being received for vendor use over states the loop costs.

Mr. Zubkus could not correct all of the defects in the SWBT loop cost studies. Because of this inability to correct all the defects, his estimates are still above what accurate LRIC cost estimates would be.

Mr. Zubkis presented a Dark Fiber Cost Study. Using SWBT Oklahoma a per foot cost for fiber was determined. The results are shown on Attachment JAZ-1.

Finally, Mr. Zubkus reviewed the portion of the rates contained in the proposed settlement between SWBT, Cox Communications and Commission Staff relating to Loops (the "Proposed Settlement Rates"). The proposed settlement rates do not represent cost based rates which satisfy either the Oklahoma costing rules (OAC 165:55-17-25 and OAC 165:55-17-27) or the relevant provisions of the Telecommunications Act of 1996. The proposed settlement rates do not incorporate all of the changes which are necessary in order to render SWBT's cost studies compliant with the Act and the Oklahoma costing rules as outlined in his testimony. Indeed, the proposed settlement rates do not even incorporate or represent the changes and recommendations of Staff consultants and, therefore, cannot be cost-based in my opinion even based upon the recommendations of Staff's own consultant. The Commission should not adopt these rates.

Summary of Cross-Examination of Jon Zubkus

On cross-examination by SWBT, Mr. Zubkus stated that the fill factor for distribution is the most significant of his proposed adjustments to SWBT's cost studies. Nevertheless, of the lengthy and voluminous loop study document he prepared, he devoted only one page to fill factor adjustments for each of the three geographical rate zones.

Mr. Zubkus adjusted SWBT's fill factor to reflect a 50% factor for distribution cable. He conceded that there is no supporting documentation supporting that adjustment and that he arrived at the adjustment more or less from his own experience. The adjustment was not based on any historical averaging of fill factor over time. He further confirmed that the fill factors that he is disputing are the actual fill factors existing for SWBT in its network today.

Mr. Zubkus was next referred to his statement that no competitor can or does operate at the low fill factor level used in SWBT's cost studies. He could not point to any specific competitor that was operating at any higher fill factor than SWBT and had no idea of the fill factor at which AT&T operates. He could point to no competitor for reference to the potential fill factor that could be effectively achieved on a local loop.

Mr. Zubkus assumes that there will be an increase in fill factors over time from that current factor experienced by SWBT. Nevertheless, he also assumes that there would be static growth of existing SWBT facilities and that no population displacement for existing facilities would occur during the same period. He assumes that if population displacement does occur then facilities would be retired and would not remain part of the base. He did concede that as long as there were two or three customers using a facility, that the facility could not be retired. He also conceded that as the population moves between inner city and suburbia, that the fills could be accordingly affected. He conceded that "things are growing, things are dynamic." When asked about the risk to AT&T that its projection of a 50% fill factor is wrong he responded that "naturally Southwestern Bell has a risk."

Mr. Zubkus was unable to state the number of UNB loops AT&T is planning on ordering during the contract period, even assuming that the rate levels were as AT&T was proposing.

SWBT next questioned Mr. Zubkus concerning his proposed adjustment to remove 25% of the Feeder Distribution Interface (FDI) investment from SWBT's cost studies. He based this percentage on Mr. Deere's testimony that currently 25% of the loops are configured without an FDI. Although he relies on Mr. Deere's testimony that this actual percentage will remain the same in the future, he declined to rely on the companion testimony of Mr. Deere and Mr. Moore that the current actual fill factor for distribution cable will also remain the same in the future.

SWBT next questioned Mr. Zubkus concerning his adjustment of 25% of the distribution cable to look like feeder cable. Mr. Zubkus agreed that feeder cable is larger and more expensive and experiences a higher fill rate than distribution cable. As a result, his adjustments would lower the cost of SWBT's loops.

At first, Mr. Zubkus stated that this adjustment was based on Mr. Deere's testimony that where there is no FDI, there is "one continuous cable" between the central office and the NID at a customer's house or place of business. However, he later admitted that Mr. Deere referred to hard splices between feeder and distribution cable, where the cables are simply spliced together on a permanent basis. He also admitted that there could also be a taper point at these hard splices.

Mr. Zubkus next testified concerning his adjustment to add more multi-line NIDs. He admitted that he had nothing to base this adjustment on, no history and no experience. He simply assumed that 50% of the customers would be multi-line customers. He could not state how many multi-line NIDs AT&T would plan on ordering. He further admitted that AT&T did not give him any projections for multi-line NIDs on the SWBT network, nor did he have any other secondary source to consult.

Finally, Mr. Zubkus was unable to effectively enunciate his position concerning his adjustment to Integrated Digital Line Carrier (IDLC), although he did explain that he proposed 100% IDLC because it is a more efficient forward looking technology that will result in cost savings. Mr. Zubkus explained that he began with SWBT's cost numbers indicating that in the future it expects 25% of its loops to be fiber. In those cases where fiber loops were assumed and digital loop carrier was involved, SWBT shows 25% of those loops to be IDLC and 75% to be Universal Digital Loop Carrier (UDLC) with a central office termination. Mr. Zubkus explained that he adjusted SWBT's numbers to change all digital loop carrier to IDLC and eliminated the UDLC central office termination. Accordingly, he provided for no UDLC in the network. He admitted that converting the UDLC to IDLC involves a cost, but he was not able to explain how or if that cost was included in the AT&T studies. He did state that a move from UDLC to IDLC would result in a cost savings.

2. Robert P. Flappan

Mr. Flappan explained that the prices for unbundled network elements (UNEs) and interconnection services presented by SWBT do not comply with the applicable state and federal requirements. SWBT's philosophy that prices should reflect "actual" cost, as opposed to long run incremental (LRIC) is directly at odds with the very essence of the Oklahoma pricing rules and the Telecommunications Act of 1996 (Act).

SWBT's prices assume that current levels of utilization and efficiency are as good as they can or will get. Prices based on true LRIC should recognize increasing levels of utilization and increasing efficiency that will come about due to increasing competitive pressures.

Mr. Flappan also presented the UNE and interconnection prices proposed by AT&T in this proceeding, which are derived from making the necessary changes to SWBT's cost studies to bring them into compliance with the applicable state and federal laws.

There are three provisions in Section 165:55 of the Oklahoma Administrative Code (OAC) which directly apply to this proceeding. These are the section 165:55-17-25 (OAC 17-25) Costing Standards, the 165:55-1-4 Definitions section that defines long run incremental cost (LRIC) and the section 165:55-17-27 (OAC 17-27) provisions that define just and reasonable prices for network elements and interconnection of facilities. The latter mirrors the language contained in Section 252 (d) (1) of the Act, Pricing Standards for Interconnection and Network Element Charges.

The Oklahoma definition of LRIC is the one of the three which most clearly shows why SWBT's prices do not conform with prevailing law. The definition states that in a LRIC study all inputs are variable, and all technology and all deployment must be efficient. SWBT's studies fail to recognize the gains in efficiency that SWBT is making and will surely continue to make over the long run time frame.

SWBT's filed cost studies do not meet the statutory definition of LRIC because they assume investment, network placement, fill factors and expense ratios to be fixed at today's levels. AT&T's adjustments to SWBT's studies correct for these deficiencies and bring the studies into conformance with the statutory definition.

OAC 17-27 states that rates for UNEs and interconnection services shall be cost based, set without reference to a rate base or rate-of-return proceeding and shall be nondiscriminatory. This tells us that we should not use SWBT's historical costs to determine rates for UNEs because those historical costs reflect rate-of-return proceedings. This section also tells us that the Commission should not set rates for UNEs based upon historical fill factors or historical network configuration.

The non-discriminatory provision of OAC 17-27 tells us that AT&T must be able to obtain interconnection and network elements at the same rates, and under the same terms and conditions which SWBT provides such elements or services to itself in the long run. If the rates, terms, and conditions offered to competitors are less favorable, then the non-discriminatory pricing rule is violated. This provision also means that SWBT cannot base its prices to competitors on a provisioning scheme that is different from how it provisions those services to itself.

Non-recurring charges (NRCs) should also meet the standards of the LRIC definition in OAC 165:55-1-4, OAC 17-25 and the OAC 17-27 pricing rules for interconnection and network element prices. NRCs must be non-discriminatory and must be based on long run, forward looking, efficiently deployed technology.

NRCs are important because they are, in effect, tickets to get into the market. Because NRCs are imposed when change occurs, they fundamentally protect the status quo. Each NRC can discourage a rival from entering altogether or can discourage a customer from using another provider's services. The NRCs applicable to transactional activities must reflect the use of non-discriminatory systems that provide entrants the same access and use of the local network that SWBT provides itself.

Every carrier will incur costs so that the industry changes envisioned by the Federal Act become a reality. The fact that SWBT's network monopoly provides it the opportunity to impose its costs on others does not mean that it should be permitted to do so. One-time "development" or "compliance" costs are internal to each industry participant and SWBT should not be allowed to include them in its charges to other carriers. Moreover, these compliance costs are not attributable to any particular carriers' request for service, but stem instead from the Act's mandate that local exchange markets should be open to competition. Congress frequently enacts statutes that impose costs on those who must comply. In this regard, there is nothing unusual about the costs caused by the Federal Act. In addition, the Commission should expect that the new operational systems and other changes implemented by SWBT to comply with the Act will also benefit SWBT's own retail services. SWBT is essentially a "purchaser" of network elements when it provides retail service, and upgrading its systems may improve the efficiency of its operations as well. Compliance with the Act cannot become an excuse for SWBT to modernize its systems with its competitors picking up the tab.

AT&T and SWBT already have an approved interconnection agreement that allows AT&T to order combinations of UNEs from SWBT. The contract requires SWBT to provide such combinations. In setting prices for UNEs and interconnection services, this issue should not be reopened. SWBT's prices should be based on its provisioning of combinations of elements as contemplated in the approved agreement.

SWBT's studies inappropriately reflect a growth in lines which would raise the price of a minute of switching, without reflecting a growth in minutes which would lower the price of a minute of switching. Whenever prices are derived from non-traffic sensitive costs which are spread over a number of minutes of use, if the number of minutes grows, the price per unit declines. If growth is going to be recognized in switching lines, it should be recognized across the board in all SWBT's studies and for all elements. Since all other SWBT studies do not recognize growth, the local switching study should not deviate from this standard approach.

There is no competitive market for unbundled network elements. Obviously, if there were such a market, there would be no need for many of the competitive safeguards in the Act and the regulations of the OAC. Thus, because SWBT is not significantly constrained by competitive market forces, it is critical that the Commission exercise its authority under the OAC and impose LRIC prices for unbundled network elements and interconnection services based upon forward-looking, efficient technologies and deployment. If the Commission were to recognize SWBT's actual embedded costs as the basis for prices, the resulting prices would violate the non-discriminatory requirements of state and federal law because they would provide monopoly profits to SWBT while competitors would not be privy to these same monopoly profits.

In order to foster meaningful competition in this state, not just by AT&T, but by other new entrants as well, the Commission must establish a mechanism by which the full costs of offering service are known by all. In order to achieve this objective, the Commission should in this proceeding expressly determine and adopt a final and exclusive set of rates and charges and order that such rates and charges will apply to AT&T's UNE purchases for the life of this contract. As a final, yet important, step the order should explicitly state that the UNE price schedule is complete and neither party may add to, subtract from or change any of the prices without agreement of the other party.

Mr. Flappan also addressed the issue of pricing customized routing and performance data on an individual case basis (ICB) rather than having cost-based rates set in this docket. Mr. Flappan explained why ICB rates are inappropriate and why ICB rates unnecessarily increase the costs and risks of new entrants who might want to enter local markets in Oklahoma and would be counter to the best interest of Oklahoma citizens.

Mr. Flappan explained that his concerns about ICB pricing for customized routing go to the heart of the difference between AT&T's position and SWBT's position on this issue. AT&T defines customized routing via the Advanced Intelligent Network (AIN) platform as the software changes necessary in the switch to direct traffic from a switch to a particular facility, such as AT&T's OS/DA platform. Implementing customized routing under this definition requires building a database into the switch software that would control the flow of traffic according to a pre-specified set of conditions. One database is built for each switch type which can then be applied to all of those switch types in a particular state. Since there are only a few switch types in Oklahoma (5E and

DMS100), the problems with developing uniform cost based rates for customized routing do not exist.

SWBT's definition of customized routing is vastly different from AT&T's definition. SWBT defines customized routing to include the actual transport facilities that carry traffic from one of SWBT's switches. SWBT says that customized routing must be ICB because there are a very large number of combinations of facilities and software changes that would possibly be requested. AT&T's position is that prices for these underlying facilities, such as DS-1 or DS-3 trunks, are being separately determined by the Commission and that there is no reason why permanent rates for customized routing should not be set in this docket.

In other states, SWBT previously produced and filed cost studies for customized routing which proves the point that ICB rates for customized routing are not necessary. ICB rates are only required when the costs to provide a service vary so significantly that the costs cannot be captured in a cost study. It follows then that, if the costs of a particular service can be captured in a cost study, ICB rates are neither appropriate nor necessary.

SWBT has deployed AIN technology in the five states in which it offers service, including Oklahoma. Thus, SWBT has already deployed the technology necessary to provide AIN customized routing in Oklahoma. Even though this technology has been deployed, SWBT has not provided a cost study for AIN customized routing.

The Commission should only permit ICB pricing when there is absolutely no alternative - when it is absolutely impossible to produce a cost study. As most people recognize, this docket presents an unusual situation whereby SWBT (which currently has huge monopoly power in Oklahoma) is able to propose the costs that its potential competitors will incur. Obviously, SWBT has a huge incentive to overstate and inflate its competitor's costs because, by doing so, SWBT can maintain its monopoly power. This problem is compounded when SWBT is permitted to engage in ICB pricing which provides SWBT with a future opportunity to shut down or forestall competitive entry by proposing unreasonable prices in response to a request for customized routing. Quite simply, if SWBT is permitted to engage in ICB pricing, it will propose outrageously high prices leaving CLECs in the quandary of either paying those prices (significantly increasing its costs while at the same time providing SWBT with a windfall) or not offering the services. Indeed, SWBT has previously demonstrated its propensity to use ICB-type pricing to preclude competition. In another jurisdiction, SWBT initially proposed a price of more than $300 million to provide customized routing, while the Commission in that state ordered a price of $114 million.. Another example of SWBT's behavior in an ICB situation is in the area of collocation. In another jurisdiction, when SWBT had ICB authority prior to the Commission in that state establishing permanent rates, SWBT proposed to charge over $500,000 for a given collocation arrangement. When the Commission set cost based rates, the price of the collocation arrangement was set at approximately $100,000.

The only way to defuse this situation and preclude a future bottleneck between SWBT and CLECs is for this Commission to reduce ICB pricing to the bare minimum. It is only through the Commission's regulatory oversight that SWBT can be made to offer just and reasonable prices to competitors for bottleneck facilities. ICB pricing will lead to slow, arduous and tedious price arbitration in the future.

AT&T, and all other CLECs, must be able to determine what its costs will be as it makes plans to enter local markets in Oklahoma. ICB pricing introduces pricing as well as timing uncertainty into AT&T's market entry plans. AT&T's entry plans could be delayed while the future price determination is being arbitrated by the Commission. In the future when AT&T will actually order customized routing from SWBT, SWBT will have no greater incentive to provide AT&T with cost based prices than it has today. In fact, if SWBT has already been allowed into the interLATA market at that time, SWBT will have no incentive to provide a just and reasonable price to AT&T. SWBT will also have no incentive to quickly resolve the question of what the price should be.

The higher the level of uncertainty facing AT&T, the less likely will AT&T be to quickly enter local markets and provide choices to Oklahoma consumers. Only when consumers have true choices will the market bring lower prices, higher quality and greater innovations.

The Commission must make it perfectly clear that customized routing does not involve the underlying facilities for which the Commission has already established arbitrated prices. Furthermore, once the facilities have been defined as being outside the scope of customized routing, since there are only a few switch types in SWBT's network, it becomes a routine costing exercise to establish a firm price for the software changes necessary to implement customized routing. Customized routing need not and should not be ICB priced. The Commission should order SWBT to file a cost study and establish permanent prices for customized routing.

ICB pricing for performance data is also not appropriate. SWBT has already agreed to provide a set of performance data in Attachment 17 of the Interconnection Agreement in Texas, Missouri, and Kansas for no charge, except for the prices AT&T is paying for the services or elements themselves. SWBT should be consistent and provide this data at no additional charge in OK also. Should AT&T subsequently request performance data which goes beyond the standard agreed upon set of data, this should be handled through the special request process.

AT&T should not be faced with the prospect of trying to enter the local market in Oklahoma without knowing how much it will cost to obtain performance data from SWBT. This merely serves to increase the risks to AT&T of entering the market, and makes it less likely that Oklahomans will soon have rivals vying for their local service business.

Finally, Mr. Flappan testified that he had reviewed the rates which are being proposed in the settlement by and between SWBT, Cox Communications and Commission Staff (the "Proposed Settlement Rates"). The AT&T cost witnesses have explained why and how the proposed settlement rates are not cost-based and do not comply with the relevant provisions of the Oklahoma Costing Rules (OAC 165:55-17-25 and OAC 165:55-17-27) and the Telecommunications Act of 1996 and, therefore, these rates should be rejected. There are two other matters with respect to the proposed settlement rates that should be brought to the Commission's attention. First, there are no cost studies or revisions to cost studies to support these rates. Second, the proposed settlement rates are arbitrary. All that Cox, SWBT and Commission Staff did in establishing these rates is "split the difference" between the AT&T proposed rate and the SWBT proposed rate (with the exception of loop), take one-third off of the SWBT proposed NRC and eliminate almost all cross-connect rates. This arbitrary manner of picking rates "out of the air" does not comply with the cost-based standards applicable in these dockets. Finally, the proposed stipulation contains a large number of items for which ICB pricing is proposed which suffer from the same defects discussed above.

Summary of Cross-Examination of Robert P. Flappan

On cross-examination, SWBT questioned Mr. Flappan concerning references in his educational background purporting to qualify him as an expert in economics. In his prepared testimony, Mr. Flappan stated that he had undertaken an extensive number of economic courses in his degree programs and studied numerous books, articles, testimony, testimony attachments and other documents relating to pricing and costing.

Despite these claims, SWBT's cross-examination revealed that although he had taken some economics courses in connection with his bachelors and masters degrees in business administration, he had not entered any degree program with respect to economics. Mr. Flappan admitted that he had no experience in pricing and costing for local exchange carriers. His training included a two-week intensive AT&T course on accounting and costing for incumbent monopoly local exchange carriers. When asked about the "numerous books" he had studied, he could only remember three and for one of the three he could not remember the author. Mr. Flappan has never submitted anything for publication to economic journals, has never been a referee or technical advisor to any economic journal, has never been a member of any editorial board for any economic journal, has never received any award for study or contribution in the field of economics, has not taught any courses in the field of economics and has never been a member of any economic association.

Mr. Flappan conceded that AT&T does employ at least one professional economist on its staff. He also conceded that there was no way for the Commission to determine from the record whether his "discussions" with economic experts satisfactorily covered any particular aspect of the field of economics. Nevertheless, Mr. Flappan insisted that the AT&T cost studies satisfied long-run economic principles but that SWBT's do not.

Although he criticized SWBT for its use of actual data in its long-run incremental cost studies, Mr. Flappan conceded that AT&T used at least some actual data in its own studies. When asked about the assumptions in the AT&T cost studies concerning the use of a network that is more efficient than SWBT's existing network, he conceded that changes for efficiency improvements do not come cost-free. Nevertheless, neither SWBT nor AT&T has included these costs in their LRIC studies; Mr. Flappan insisted historical or booked costs should not be included in a LRIC study. He stated that a company operating in a market where a competitor offers its product at a lower price because of the competitor's lower costs does "not have the luxury" of attempting to recover its historical or booked costs in its pricing structure.

Mr. Flappan conceded that AT&T made adjustments to SWBT's cost studies which resulted in dramatically different costs. Nevertheless, he insisted that the network which AT&T presumed in its cost studies is no different from the current network of SWBT.

He insisted that the adjustments to SWBT's cost studies are necessary to reflect a more efficient service than is presently available. AT&T adjusts SWBT's current cost studies to increase the level of technology. However, when AT&T places an order for an unbundled network element (UNE), he conceded that AT&T would most likely get the level of efficiency present in SWBT's network today, rather than a higher level of efficiency presumed in the AT&T cost studies. If SWBT could not achieve the higher level of efficiency, AT&T would take the system as actually provided.

Mr. Flappan denied that the dramatic difference between AT&T's projected cost for SWBT's network and SWBT's actual costs raised any questions about the validity of AT&T's projections. He insisted that the proposed costs and proposed rates should not have any relevance to SWBT's actual costs.

Although AT&T takes the position that the costs for an efficient network are dramatically below SWBT's actual costs, Mr. Flappan offered several explanations as to why AT&T could not build its own network in Oklahoma today, including the fact that SWBT has enjoyed a monopoly in Oklahoma for 100 years, that SWBT has embedded facilities across the entire state, that SWBT has call volumes and enjoys economies of scale which AT&T cannot replicate, that given SWBT's monopoly and economies of scale, it could match AT&T's rate, and the fact that it would cost millions of dollars to replicate SWBT's network.

3. John C. Klick

Mr. Klick is the founder of Klick, Kent & Allen, Inc. AT&T Communications of the Southwest, Inc. ("AT&T") retained Klick, Kent & Allen to: (1) summarize the major deficiencies that AT&T experts identified in the cost studies presented by Southwestern Bell ("SWBT") and (2) critique a number of miscellaneous SWBT cost studies.[4]

In order to comply with the long-run incremental cost ("LRIC") standards of this Commission, cost studies submitted should (1) be forward-looking; (2) reflect the long run; (3) be incremental; (4) incorporate least-cost technologies; and (5) reflect cost-causation. The cost studies submitted by SWBT

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[4] In Cause PUD 97-213, those studies include LSP to SS7 STP DS0 and DS1, SS7 Transport, STP Port, LIDB Query, LIDB SMS, CNAM Query, Toll Free Calling Query, Directory Assistance, Operator Services Cost Model (OSCM), Operator Work Seconds, Local and IntraLATA Operator Assistance, Call Branding and Operational Support System (OSS). In Cause PUD 97-422, those studies also include Directory Assistance Call Completion, E911, White Pages, Directory Assistance Listing and LSP Emergency Contact for Non-published Service.

did not meet these basic LRIC principles. SWBT incorporated inappropriate assumptions into their cost studies and applied costs to inappropriate elements, thereby violating the principle of cost causation, and based their costs on embedded, historical data, thereby violating the principle that the cost studies should be forward-looking.

Mr. Klick has summarized the analyses conducted by other AT&T experts.[5] He concluded that the SWBT cost studies require substantive changes in order to conform to LRIC principles. He identified where the SWBT cost studies contained both conceptual errors and errors in implementation, resulting in overstated costs, and the corrections required to bring the SWBT cost methodologies into conformance with Commission principles.

Mr. Klick directly sponsored AT&T's recommended changes to certain studies. All of the SWBT signaling cost studies rely upon output from the Common Channel Signaling Cost Information System (CCSCIS) model. In order for those studies to conform to LRIC principles, the input to CCSCIS version 4.2 (used to determine investments for STPs and links) should be corrected two ways. First, the utilization factor should be set to 1.0. This change yields an optimal utilization of 40% for each STP pair, or a utilization of 80% if one STP fails. A 40% utilization per STP is standard engineering and is recommended by Bellcore. Second, the investment values used by SWBT are for medium-sized STPs, converted to large STP configurations, an approach more expensive than purchasing a large configuration. However, because of a lack of investment information, the AT&T cost studies incorporated the SWBT's investment values, even though it overstated costs. SWBT should be required to rerun its studies with the correct investment values.

Mr. Klick also identified that an input change was required to CCSCIS version 3.9 (used to determine investments for SCPs). The investment values used by SWBT do not reflect the declining trend in prices shown in the SCIS investment tables. To reflect a current SCP investment level, he extrapolated the downward trend to a 1996 time frame. When combined with the SWBT volume discount, an overall 40% discount resulted. These changes to the CCSCIS models were incorporated into the revised signaling cost studies -- LIDB Query, CNAM Query, Toll Free Calling Query, SS7 transport and STP port.

Mr. Klick also determined that the only change required to the unbundled LSP to SS7 STP DS0 and DS1 cost studies was to incorporate the cost factors corrected by Mr. Rhinehart into the ACES runs that develop investment.[6]

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[5] Mr. Klick summarized the following AT&T witnesses' testimony: Zubkus' analysis of the SWBT loop studies, Petzinger's analysis of local switching studies, Turner's analysis of transport studies, Lee's analysis of SWBT's economic lives and salvage values, Rhinehart's analysis of factors and common costs and Segura's analysis of non-recurring charges.

[6] ACES converts investments into annual and monthly costs. AT&T's ACES runs all incorporate corrected factors.